

**REDMOND PLANNING COMMISSION  
MINUTES**

October 19, 2005

**COMMISSIONERS PRESENT:** Chairperson Snodgrass, Commissioners Allen, Hinman, Parnell, Petitpas, Querry

**STAFF PRESENT:** Jim Roberts, Lori Peckol, Cathy Beam, Redmond Planning Department  
Keith MacDonald, Roger Dane, Redmond Public Works Department

**RECORDING SECRETARY:** Karen Nolz

**CALL TO ORDER**

The meeting was called to order at 7:00 p.m. by Chair Snodgrass in the Public Safety Building Council Chambers. Commissioner McCarthy was excused.

**APPROVAL OF AGENDA**

The agenda was approved by acclamation.

**APPROVAL OF MEETING SUMMARY**

There were no changes or corrections, so the October 5 Meeting Summary was considered approved.

**ITEMS FROM THE AUDIENCE**

Loren Steele, 11804 NE 103rd Place, Kirkland, with the Seattle Area Soaring Society (SASS), reported that King County plans to turn over 60 Acres South to the Lake Washington Youth Soccer Association for soccer activities. SASS plans to meet with the King County Parks Division Director next week to try to understand what they have planned. A significant expansion of the soccer land would probably include a significant increase in the number of people in that area, which would also increase the amount of traffic. He distributed a handout. SASS believes that the best use for 60 Acres is to keep it as it is—a diversified passive use park. He requested that the City scrutinize any proposal from King County for suitability. He planned to keep the City informed as circumstances develop. He added that SASS has discussed this issue with the City of Redmond Parks Board. He reported that interested people could contact the SASS board members at SASS.com, and his personal contact information was on the handout. He suggested that anyone interested should write to the King County Parks Division.

Chair Snodgrass inquired if the soccer use fit in with the urban recreational restrictions that the City put on that property.

Ms. Peckol answered that she has not looked at that, but appropriateness of the use would be the issue. The traffic impacts would be considered by City staff.

Jim Lorell, 22600 NE 142<sup>nd</sup> Place, Woodinville, voiced his disagreement with King County's attempt to turn 60 Acres South into a soccer facility. He thought that such a facility might not be in the community's interest. His family has greatly enjoyed the park, and 60 Acres South is the last public open space near their house. He commented that King County vastly underestimates the amount of activity in this park. The people who use the space at 60 Acres South share it very well. This space seems to him to be an idyllic example of what a public park should be. The activities that go on there

are family-oriented, including flying model planes and rockets, and expose children to science lessons in such areas as aerodynamics, electronics, high-tech composite materials, and construction techniques. He supported 60 Acres South remaining in the role that has served our community so well over the last thirty years.

Ms. Peckol noted that staff received an email with comments concerning the North Redmond Neighborhood Plan Update and a copy of this email was provided to the Planning Commissioners.

## **PUBLIC HEARING AND STUDY SESSION**

Stream Classification Map Update to Reflect the Critical Area Ordinance and to Identify Riparian Habitats of Local Importance.

Chair Snodgrass opened the public hearing at 7:12 p.m.

Cathy Beam, Principal Environmental Planner, gave an overview of the stream classification update. Previously, Redmond's stream map had Classes 3 and 4 combined because of lack of details. The City's Natural Resources Division had contracted with Washington Trout to do some stream reconnaissance work. Their findings allow the City to update its stream map. There are some stream segments throughout the city that should be increased in classification and others that should be decreased. The map the Planning Commission is looking at shows the proposed stream designations using the new CAO stream class definitions, field verified by Washington Trout. The map is for general planning purposes only and is not a regulatory tool. It is the best information the City has available currently on our stream systems. Per our adopted regulations, starting with the Sensitive Areas Ordinance adopted in 1992, any person seeking development or redevelopment of a property is required to submit a streams study. Updating this map does not relieve that obligation. This map does not trump a specific field study; the field study governs.

Also, the map will help to identify and designate Riparian Habitats of Local Importance. Under state law, the Growth Management Act allows jurisdictions to designate and protect Species of Local Importance and Habitats of Local Importance. When the City adopted the Critical Areas Ordinance in May 2005, the Great Blue Heron was identified as the City's Species of Local Importance. The City did not designate Habitats of Local Importance at that time. When going through the proposal, the City Council asked that that staff look at designating Habitats of Local Importance, particularly Riparian Habitats of Local Importance, as part of the stream map update. The proposed map includes those areas proposed as Riparian Habitats of Local Importance. Ms. Beam provided copies of emails dated 10/5 and 10/19 with public comments and staff responses, and entered these into the record. She summarized the emails as being from people who were curious about getting a better understanding of what the classification system means and what it would mean to be increased or decreased in classification. There were a number of emails requesting that Perrigo Creek be identified as a Riparian Habitat of Local Importance.

Mr. MacDonald added that there was one case where there was a serious question whether or not the stream had been correctly identified as a Class 2 stream. The comments made about that particular location were correct as they related to a barrier to fish passage further down stream. A Class 2 stream with a barrier would not meet the presently proposed staff definition of a Riparian Habitat of Local Importance, because there would not be a substantial number of fish there since they could not get around the barrier.

### Public Testimony:

Bob Yoder, 10019 169<sup>th</sup> Avenue NE, Redmond, thanked staff and the Planning Commission for their work. He spoke of the beauty of Evans Creek and of its being the best example of a riparian habitat area he had seen while looking at Class 1 and 2 streams. The goal is to achieve no net loss of the core preservation area. If a developer wants to develop land, he must protect the stream with buffer averaging.

He requested that when this type of buffer averaging occurs that a log be kept to account for the amount of land that has been moved, replaced or averaged to see what is happening. He reported that east of the Burlington Northern Railroad in the watershed area he saw a little more sediment than he saw last year. Salmon need to have rocks and pebbles, not sediment. If there is sediment, they cannot lay their eggs and eggs will not hatch. This year he saw six Chinook salmon, and last year he saw about 120, even though they are in the middle of spawning season. He attributed the difference to the fact that Lake Washington is warming up. He added that three-quarters of the streams cannot be accessed because of blackberry vines that are taking over, and suggested goats as a blackberry elimination process. Regarding the map changes, he requested that the maps have legible street names, because he could not read them as they are even with a magnifying glass. He referred to one Class 3 stream —Oak Wood Creek on West Lake Sammamish Parkway where the Oak Creek Condos are; there should be two streams shown and there is only one. He requested that the City designate Idylwood Creek as a Riparian Habitat of Local Importance. The City spent \$2.3M restoring the creek, getting the water to flow correctly with less sediment. He inquired about what the City does about middle buffers where businesses have left a lot of debris and trash. His conclusion was that riparian habitats are really important for water quality, people, education, and science.

Robert Morris, 17023 NE 100<sup>th</sup> Place, Redmond, brought a letter to the Planning Commission requesting that Perrigo Springs on Education Hill be nominated as a Riparian Habitat of Local Importance. Perrigo Springs flows down the hill from an area near Hartman Park easterly toward Avondale. In a survey taken in March, the City found that voters are highly interested in protecting water quality in rivers and streams and in protecting land around rivers and streams, and in protecting wildlife habitat. He showed a picture of a rally supporting Perrigo Springs and a picture of the survey results. He said that Perrigo Springs was the City's first water source in 1914. By the 1920s, demand began to outpace the water supply. Perrigo Creek, where it enters the pipe on Avondale, is filled with silt. A good ten feet of silt has washed down the hill into the dam. The hill above is badly eroded. Last fall, a large tree was knocked down in a windstorm. Perrigo Springs and Perrigo Creek are in a woodland, so it is natural for this to be a riparian habitat.

Given the development that will be going on in that area, Commissioner Parnell commented that there is no way he could imagine being able to preserve the springs and creek bed in the present form.

Mr. Morris responded that the development plans are alarmingly close to Perrigo Creek. The prime reason for nominating this as a Riparian Habitat of Local Importance would be to have an increased buffer area. He said he understood that the government puts a lot of chemicals in the creek. He emphasized that this is an important water supply for Redmond. He mentioned that there was a well there that is now abandoned. Well #3 is in the downstream flow of this creek. Some of the groundwater from Education Hill flowing into Perrigo Creek has fertilizers and other contaminants.

Bruce Nickolson, 9829 Cherry Street, Edmonds, said that he owns the last developable property that is affected by the decision of this stream designation. He has been working with staff for several years. The concept of trying to reverse what has already been done with the development of the surrounding area of that creek is impossible. Most salmon will not travel along a culvert. He was not sure how a stream could be classed as a Class 2 versus a Class 3. He did not disagree with the Class 2 on the hillside from the water tanks up because there is a natural habitat there, but he did disagree with that classification for the creek downstream of the water tanks. He said he would send in an email regarding the results of this hearing. He requested that staff describe what conditions must be met in that area.

Ariel Netz, 8427 - 143rd Court, Redmond, commented that he has exchanged emails with Mr. MacDonald about his property. He wanted to raise a concern that the people who planned the survey were extremely liberal. The stream on his property is classed as a Class 2 and is not obvious to him. He objected to the classification and requested that his property be resurveyed.

The Chair clarified that the map does not designate the stream on Mr. Netz' property as a Class 2, and was just an overall survey. This map is only a general guideline and has no controlling effect. He explained that when Mr. Netz makes an application on this property he will have to get a scientist to determine whether the stream is Class 2 or 3.

Tom Glaister, 17002 NE 122<sup>nd</sup> Street, commented that the maps citizens receive do not have street numbers, do not identify primary streets, or designate north or south directions, and so are confusing. He considered the recent maps useless.

Chair Snodgrass closed the public hearing, but indicated that staff would accept further emails before the issue goes to City Council.

There was agreement to recommend the "Riparian Habitat of Local Importance" definition and to add "native" in front of "fish."

Ms. Beam explained that the adopting ordinance, including the Streams Map and Riparian Habitats of Local Importance definition, will go forward to City Council. She continued that in the Critical Areas Ordinance (2259), language about the map is specified. The map will become part of the map portfolio under RCDG 20D.140.10.040. She confirmed that the Riparian Habitats of Local Importance designation is symbolic, and does not add extra regulations.

There was discussion about the requests to add the RHOLI designation to Perrigo Creek and Idylwood Creek.

Mr. MacDonald and Mr. Dane explained that neither Idylwood Creek nor Perrigo Creek meet the Planning Commission's recommended definition of a RHOLI.

The issue was carried forward to the next meeting on Wednesday, October 26.

## **PUBLIC HEARING AND STUDY SESSION**

### **Portable Signs**

The Chair opened the public hearing.

Jim Roberts presented the staff report regarding this issue, which is a court challenge of the City's sign ordinance relating to portable and temporary signs. He gave the background of the sign regulation, including the interim regulations that have been in effect for six months and noted that this action is before the Planning Commission to put in place some permanent regulations until the Court makes a decision about the appeal. The Court ruled that the regulations violated the First Amendment as well as Article 1, Section 5 of the Washington State Constitution. Staff recommended Alternative 1.

City Attorney Jim Haney was present to give legal opinions since this is a matter currently in litigation. He gave a history of the lawsuit by Dennis Ballen of Blazin' Bagels, noting that this litigation involves federal and state constitutional issues, and is being heard in the US District Court for the Western District of Washington. On January 21, 2004, the US District court issued a preliminary injunction against the City. The City and the plaintiff were able to move for summary judgment. On June 15, 2004, the Court issued a judgment granting the summary judgment to Mr. Ballen and holding the City's portable sign regulations invalid because the City had differentiated in the exceptions it had identified for the signs that were allowed by code. The Court found that the regulations were based on traffic safety and aesthetic rationale, and did not further that rationale. The Court spoke especially of real estate signs and other signs allowed by exceptions to the ban on public signs in the public right-of-way as being no different

than other public signs. The Court invalidated the City's regulations, and enjoined the City from enforcing them. The City has appealed to the 9<sup>th</sup> District Court of Appeals. The Court has yet to set the date for oral argument, but that argument could take place at the end of this year or at the beginning of 2006, followed by an estimated six months to receive a decision. Based on the number of signs in the City, staff recommended that the City establish some interim regulations, so adopted Ordinances 2253 and 2254 to establish interim regulations. The intent was to comply with the District Court's order by making all portable commercial signs the same—one per business and subject to specific sign regulations, and portable non-commercial signs are not treated the same as the portable commercial signs. If the City is successful in its appeal, it should be able to revise the regulations that were in effect in July 2003 before all of this started. The City legal representation has continually argued that those regulations are valid based on the number of cases. The City's attorneys think that the City's 2003 regulations are valid, but there is the need to take some action, so there are three proposed alternatives for the Planning Commission to consider, as follows:

1. The interim regulations with some minor revisions to include banners in the list of prohibited signs and to expand the hours which the commercial signs may be displayed to whenever the commercial premise is open for business.
2. Like Alternative 1 except that it regulates the number of portable signs with the zoning district they are in, so one in high-density residential zones, and three for low- and medium-density zones.
3. Like Alternative 1 and 2 except that it regulates the number of signs based upon whether the activity advertised is temporary in nature or permanent in nature, the theory being that if a business has a permanent location and has City-approved fixed signage under the sign regulations, the portable signage can be limited to one sign, and a business, which is temporary in nature and not allowed all the permanent signage that a permanent location is allowed, would be allowed more temporary signage.

The Planning Commission went into Executive Session in the Council Conference Room since some of the issues under consideration related to regulations for Portable Signs involve litigation or potential litigation.

After returning from Executive Session, Chair Snodgrass continued the Public Hearing.

#### Public Testimony

Ron Fowler, 10717 159<sup>th</sup> Court NE, Redmond, manager of a real estate office in Redmond and past president of the Seattle/King County Association of Realtors, commented that there is economic evidence on the impact the real estate business has had on Redmond and the surrounding area. The real estate market ebbs and flows; is hot now, but can change at any time. They need to have consistent sign laws that support the real estate business and the citizens of Redmond. He explained that life events create the need to sell houses—often on a fairly quick basis, such as in bankruptcies and foreclosures—and agents need every bit of advertising possible. A study ranked open houses as the top way for people to sell homes, and for those, advertising and directional boards are needed. Another point is fair housing, with everyone having fair access to knowledge of the homes for sale—not everyone has a computer, so these physical signs allow fairer access to all types of people. The real estate agents consider four signs as the necessary number to promote and advertise homes for sale. He supported Alternative 3.

Todd Woosley, 12001 NE 12<sup>th</sup> Street #44, Bellevue, WA 98009, a housing specialist representing the Seattle/King County Association of Realtors, complimented the Planning Commission on supporting innovative housing in Redmond. He requested the Planning Commission's help in making home ownership and home selling work efficiently, and urged the adoption of Alternative 3, which could be the start of establishing the difference between off-premise real estate signs from off-premise commercial

signs. He cited the results of a tri-county sign study, noting that 30 cities allow four or more off-premise real estate signs, and requested that the Commission include some additional rationale to allow one off-premise commercial sign and four off-premise real estate signs. He proposed the following rationale for distinction of the interim regulations:

- Would encourage home ownership
- Would meet Federal Fair Housing goals, which indicate that signs are nondiscriminatory.
- Would acknowledge that commercial properties have a permanent location and that selling homes is a transient or temporary type of business.
- Would indicate that permanent locations would need only one temporary sign because there would be signage on the building, signage on the window or door, could have a monument sign, and have the ability to market through the yellow pages and a website address.

He contended that for real estate agents Alternative 1 would have a distinct disadvantage. He handed out a court decision and the realtors association's representations' opinion why the City should adopt Alternative 3, and added in the reasons why it is good public policy to differentiate between these signs.

To Commissioner Allen's inquiry, he responded that he knew of no other jurisdictions that have been challenged constitutionally. He noted that the real estate agents work very cooperatively with the cities on a self-policing policy, so that code enforcement officers are not overwhelmed.

In response to Commissioner Hinman's question about the agents' thoughts on Alternative 2, he responded that this alternative is attractive, except that it is based on zoning, and that would make it very difficult for people placing the signs out there, since they would have to know in what zone they were. They would accept Alternative 2 if that were the only alternative. He proposed that Redmond could set a national example for a model ordinance with the distinctions that he had suggested.

Chair Snodgrass inquired if any studies, empirical data, or evidence was available comparing three signs to four. Mr. Woosley responded that the realty association has lots of anecdotal reports about the difficulties caused by the complexity of the road system on the Eastside and the fact that the street names do not necessarily match up with the map of the King County grid system resulting with a minimum of four signs making direction finding much more amenable. He agreed to find out if these reports are available to others, but he suggested that the emails received by the Commissioners in support of Alternative 3 might be the best compilation.

Ms. Peckol entered into the record the 213 emails received, nearly all in support of Alternative 3, and the Planning Commission members received copies.

Pete Van Eynde, 2625 183<sup>rd</sup> Avenue NE, Redmond, explained that Alternative 2 with the zoning restrictions does not really work because frequently real estate signs have to be placed in more than one zone. This is cumbersome and makes it difficult for all realtors and code enforcement people to know exactly where all the zoning lines start and stop, and where the demarcation lines would be, or how wide the street dedication should be. He noted that condominium signs would not be regulated other than by the condominium rules because they are on private parcels with private streets. He explained that realtors do not like placing more signs than needed because at the end of the day they have to pick them all up. He supported Alternative 3. He reported that 101 agents with ReMax Realty support Alternative 3.

Brian Laing, 16911 NE 99<sup>th</sup> Court, Redmond, commented that he found all three of the homes he has owned by driving around and looking for open house signs. He supported Alternative 3.

Chair Snodgrass closed the verbal comment, but kept the record open for additional written comments, including Mr. Woosley's additional comments and anecdotal reports.

There was concern expressed about the need to make a compelling argument beyond safety and aesthetics to differentiate what may be viewed simply as speech.

The study session on this issue will be held on Wednesday, October 26.

### **STUDY SESSION, 2005 DOWNTOWN DEVELOPMENT GUIDE AMENDMENTS**

Postponed to the October 26 meeting.

### **REPORTS**

The City Council adopted the unit lot subdivision administrative design flexibility, and put into place a revision to the Building Code to allow five-story frame construction in the Downtown and Overlake.

During the October 26 Planning Commission Kurt Seemann, Public Works, will present a briefing, and in preparation for that has provided a report regarding the Bear Creek Parkway that was distributed to Planning Commissioners at the meeting. The City is proceeding with the design of Bear Creek Parkway, so Public Works wants input from the Planning Commission regarding design and any particular concerns related to walkways, access, etc. A 30% design level is his goal.

### **SCHEDULED TOPICS FOR NEXT MEETING**

- Bear Creek Parkway Discussion
- Portable Signs
- Stream Classification Map Update
- 2005 Downtown Development Guide Amendment
- Responses to emails addressed to the Planning Commission

### **ADJOURN**

Chair Snodgrass adjourned the meeting at about 10:30 p.m.

Minutes Approved On:

Recording Secretary:

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